

Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

Environmentally Critical Areas— Yard & Setback, Steep Slope and Wetland Buffer Variances: Application Instructions and Submittal Requirements

Updated May 9, 2006

YARD AND SETBACK VARIANCES

City of Seattle regulations for environmentally critical areas (ECAs) include a provision authorizing the Department of Planning and Development (DPD) to allow a 25% reduction—up to a maximum of 5 feet—in yard or setback requirements for front or rear yards on a lot in existence as a legal building site prior to Oct. 31, 1992, when necessary to maintain the full width of a riparian management area, or steep slope area buffer, or wetland buffer. ECA regulations are contained in the *Seattle Municipal Code* (SMC), Chapter 25.09.

Any yard or setback reduction greater than 5 feet that is necessary to maintain the full width of a riparian management area, steep slope buffer, or wetland buffer requires approval through an ECA yard or setback reduction variance. The Director may establish conditions to mitigate the reduction of the yard, setback, steep slope buffer and steep slope area. For more detailed information, please see SMC Section 25.09.280.

Before applying for a yard or setback reduction variance, applicants should consider other provisions that may change a wetland buffer or steep slope buffer or allow development in the riparian management area, set out in SMC sections 25.09.160 (wetlands), and 25.09.180 (steep slopes). If reducing the yard or setback does not mitigate the hardship unless the ECA buffer is also reduced, then no variance can be granted under 25.09.280. However, for steep slopes, a variance may be possible under 25.09.180 E, or a Category IV wetland buffer may be reduced under 25.09.160 D.

If the remedies provided in these sections are insufficient, the applicant may be eligible for an ECA exception. Please see SMC Section 25.09.300 and Client Assistance Memo (CAM) 328, *ECA Exception - Application Instructions and Submittal Requirements*.

STEEP SLOPE VARIANCES

The Director may reduce the steep slope area buffer and/or may authorize limited intrusion into the steep slope area. The applicant must demonstrate that the lot where the steep slope and/or steep slope buffer is located was in existence before Oct. 31, 1992; and that the variance criteria under Section 25.09.280 B are met, except that maintaining the full width of the buffer by reducing the front or rear yard or setbacks is not required if it can be shown that this will not mitigate the hardship.

The Director is authorized to allow only the minimum reduction or intrusion needed to mitigate the hardship found under SMC Section 25.09.280 B2 and must do so in the following order of priority:

1. reduce the yards and setbacks
2. reduce the steep slope buffer
3. allow an intrusion into not more than 30% of the steep slope area

CATEGORY IV WETLAND BUFFER REDUCTION VARIANCES

Like the steep slope variance, there may be circumstances where the application meets the criteria for a yard or setback reduction variance, but reducing the yard or setback does not result in completely maintaining a wetland buffer. The Director is authorized to reduce the required wetland buffer for Category IV wetlands, but never to less than 35 feet. The lot where the buffer is located must have been in existence before Oct. 31, 1992.

The Director can do this only if the site does not meet the criteria for buffer averaging in SMC Section 25.09.160 D1 or buffer averaging does not relieve the



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hardship found under SMC Section 25.09.280 B2. The Director is authorized to allow only the minimum reduction needed to mitigate the hardship after the yard and setbacks have been reduced and after buffer averaging (if allowed). The wetland must be restored on site, and the Director may establish conditions to mitigate the reduction of the yard, setback or buffer.

For more detailed information, please see SMC Section 25.09.160 D2 (wetland buffer) in addition to Section 25.09.280.

PLANS REQUIRED

DPD requires three identical copies or sets of plans for a variance. Each set should have a DPD Coversheet. The intent of the plans is to clearly describe the proposed structure or development with emphasis on the extent of the modification for which this variance is sought. The applicant must also provide a written analysis of the variance criteria.

The types of plans required may include:

SITE PLAN—All applications will require a detailed site plan, per the requirements of CAM 103B, *ECA Site Plan Requirements*, describing the existing and proposed developments. The site plan must include the boundaries of all ECAs, ECA buffers, limits of development coverage, limits of site disturbance, location of significant trees and vegetation areas, proposed and existing utility locations, and notations of variations from yard or setback requirements, any proposed buffer reduction, and calculations of any proposed steep slope intrusion. The applicant must also provide a written analysis of the variance criteria.

ELEVATION PLANS—Elevation views with particular emphasis on describing those portions of a structure that require a variance action may be helpful.

FLOOR PLANS—Floor plans of proposed and existing structures showing the use of all floor areas.

LANDSCAPING AND OPEN SPACE PLANS—All projects must show landscaping meeting City standards. All projects involving residential use must show open space meeting City standards, particularly where proposed development will replace existing open space. Single family residences in Single Family Zones do not need to show landscaping or open space, however the configuration of existing or proposed landscaping may be used to support an application.

CONTEXT MAP—A map illustrating the subject property in relation to developments in the vicinity should be provided to give support to the application.

TOPOGRAPHIC MAP—A topographic map is required for sites with steep slope areas and steep slope buffers. This information may also be helpful for variance applications on sites with other ECAs.

Additional requirements:

DPD may also require the following technical reports:

- a. Vegetation and revegetation report
- b. Geotechnical report
- c. Hydrology report
- d. Wetlands/riparian corridor report
- e. Other reports as required

For a checklist of the specific plan and application requirements for your project, please visit our Applicant Services Center (ASC) and speak with a land use planner. The ASC is located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. Call for business hours at (206) 684-8850 or check online at **www.seattle.gov/dpd/permits**.

APPLICATION FEES & PROCEDURES

An initial minimum application fee is due at the time you apply. This fee is charged in accordance with the *Seattle Fee Subtitle*, available from DPD's Public Resource Center (PRC), or on DPD's fees page at **www.seattle.gov/dpd/fees**. Additional fees at an hourly rate may apply, depending on the time required to process your permit. Information on fee rates and procedural requirements is available by calling our PRC at (206) 684-8467.

APPLICATION INSTRUCTIONS

1. For assistance with specific ECA regulations questions related to your application, you may:
 - meet with a land use planner at the ASC; or
 - schedule a presubmittal conference with a land use planner, which is recommended for applicants contemplating an ECA variance application. Please see SMC 23.76.038
2. Prior to appointment—In order to schedule an intake appointment, you must have completed an Address/Records Worksheet and a Pre-Application Site Visit Request Form (fee required). You will receive a project number and a report from the site inspector.
3. Scheduling an appointment—Variance applications are filed with DPD by appointment with a land use planner at the ASC; call (206) 684-8850 to schedule.
4. Complete the attached variance application form (one copy required for submittal).
5. Prepare three sets of plans with Coversheets as indicated previously.
6. At your appointment, the remaining fees will be collected along with your completed application and the three sets of plans.

NOTICE OF APPLICATION

DPD will prepare a notice of the application in the department's *Land Use Information Bulletin* (LUIB) and will post one land use sign on the development site. Additionally, all residents and owners of properties within 300 feet of the site will receive mailed notice of the application.

The LUIB, land use sign and 300-foot mailed notice initiate a 14-day comment period that may be extended for an additional 14 days if a written request is received prior to the end of the initial 14-day comment period. The LUIB is available online at www.seattle.gov/dpd/notices.

DECISIONS

The granting or denial of variances is regulated by the provisions of Section 23.76.004 of the Land Use Code. When a variance is authorized, conditions may be attached regarding the location, character and other features of a proposed development that may be deemed necessary to carry out the spirit and purpose of the ECA regulations.

These conditions may take the form of granting only a partial variance (by allowing less than the requested amount of variation) or granting less than the number of specific variance components requested.

Once the analysis is completed, a decision will be made and published in the *Land Use Information Bulletin* and *Daily Journal of Commerce*. Notice of the decision will also be sent to individuals who have indicated their interest in receiving it. Any person significantly affected by, or interested in, the decision may appeal. The appeal instructions are included with the notice of decision.

Attached is the ECA variance application form. The application must be fully completed with the required information and documentation attached before it can be accepted by the land use planner. Additional information may be requested of the applicant during the review process.

ECA YARD OR SETBACK VARIANCE REVIEW PROCESS AND APPEAL PROCEDURES

A land use planner will be assigned to the project to complete review and analysis. The application may be distributed to other City departments for their comments. The request for an ECA variance application will be evaluated in the context of the applicant's written analysis, proposed development, measures to protect the environment, and measures to minimize and reduce impacts on the surrounding development pattern and zoning designation.

Once the analysis is completed, a decision will be made and published in the *Land Use Information Bulletin* and *Daily Journal of Commerce*. Notice of the decision will also be sent to individuals who have indicated their interest in receiving it.

A decision on the ECA variance request may be appealed to the hearing examiner. Information about how to appeal is included in the notice of decision. The hearing examiner decision is the final City decision.

OTHER HELPFUL DOCUMENTS

1. DPD Director's Rule 3-94, *Requirements for Permitting Development in Environmentally Critical Areas*
2. CAM 103B, *ECA Site Plan Requirements*
3. CAM 327, *ECA Exemptions and Modifications to ECA Submittal Requirements - Application Instructions and Submittal Requirements*
4. CAM 328, *ECA Exception - Application Instructions and Submittal Requirements*
5. CAM 329, *ECA Administrative Conditional Use Permit to Recover Development Credit & Permit Clustered Development On-Site in Single Family Zones - Application Instructions and Submittal Requirements*
6. CAM 331, *ECAs: Tree and Vegetation Removal and Restoration - Application Instructions and Submittal Requirements*

Access to Information

Links to electronic versions of DPD Client Assistance Memos (CAMs), Director's Rules, and the Seattle Municipal Code are available on the "Publications" and "Codes" pages of our website at www.seattle.gov/dpd. Paper copies of these documents are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.



Seattle Department of Planning and Development
700 Fifth Ave., Suite 2000, P.O. Box 34019, Seattle, WA 98124-4019

Application Form for ECA Variances

TO BE COMPLETED BY APPLICANT

A. Please describe the proposed project indicating square footage of structure, height (1, 2, 3 stories, etc) and other specific details that communicate, with the plans, the nature of the proposed development on the subject site and the features that require a variance.

Please provide a response to each of the five questions below. Use a separate sheet for your answers; please number your answers to correspond to the questions listed below. You will need to address each criterion for each variance being sought.

The lot for which the variance is requested must have been in existence as a legal building site prior to October 31, 1992. All applications must include the following. Please see SMC Section 25.09.280 for more detailed information.

B. You must submit a written analysis of the following facts and conditions as they apply to your request:

1. **Because of the location of the subject property in or abutting an environmentally critical area or areas, and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Title 23 would cause unnecessary hardship;**
2. **The requested variance does not go beyond the minimum to stay out of the full width of the riparian management area or required buffer and to afford relief; and**
3. **The granting of the variance will not be injurious to the safety or to the property or improvements in the zone or vicinity in which the property is located; and**
4. **The yard or setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining; and**
5. **The requested variance would be consistent with the spirit and purpose of the Environmentally Critical Policies and Regulations.**

If the remedies provided in these sections are insufficient, the applicant may be eligible for an ECA exception. Please see SMC Section 25.09.300 and CAM 328.

TO BE COMPLETED BY APPLICANT

NAME AND ADDRESS OF OWNER(S) OF THE PROPERTY

Name: _____

Address: _____

City/State/Zip Code: _____

Telephone: _____

NAME AND ADDRESS OF AGENT FOR OWNER(S)

Name: _____

Address: _____

City/State/Zip Code: _____

Telephone: _____

Applicant's Signature: _____

Date of Application: _____

TO BE COMPLETED BY DPD STAFF

Application Number: _____

Receipt #: _____

Land Use Planner: _____

Fee: _____

Analyst: _____

Land Use Map Page: _____

Zone: _____

Type of Critical Area(s): _____

Other Land Use Designations: _____

Approved: _____

Denied: _____